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Food and Agricultural Import Regulations and Standards

Country Report

2006

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Report Highlights:

This report outlines regulatory requirements for food and agricultural products exported to New Zealand, including labeling, packaging, and food additive regulations and other regulations and requirements.

Includes PSD Changes: No

Includes Trade Matrix: No

Annual Report

Wellington [NZ1]

[NZ]

NEW ZEALAND FOOD IMPORT REGULATIONS AND STANDARDS

DISCLAIMER: This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Wellington, New Zealand for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. **FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.**

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SECTION I: FOOD LAWS

A. Food Legislation

There is a myriad of legislation governing food in New Zealand. A key component of the legal framework governing food is the Food Act of 1981 but there are also a number of pieces of legislation that govern what can go into food. The most significant is the Australia New Zealand Food Standards Code (the Code) promulgated under the Food Act of 1981.

Australia New Zealand Food Standards Code

Australia and New Zealand signed an agreement in December 1995 that established the intention to develop a joint food standards system as a means of protecting public health while facilitating trade. This agreement resulted in the formation of a joint Australia - New Zealand food regulation agency, Food Standards Australia New Zealand, and development of the Australia New Zealand Food Standards Code (otherwise known as [the Code](#)). The code was adopted in New Zealand in February 2001 and took full effect in December 2002.

The Code, which is administered by Food Standards Australia New Zealand (FSANZ), contains requirements relating to food production including food composition, additives, labeling, contaminants, and genetic modification. It is broken down into four chapters: general food standards; commodity standards; food safety standards (Australia only); and primary product and processing standards (Australia only). All food products produced in New Zealand or imported into New Zealand must comply with the standards in the Code. FSANZ does not have responsibility for enforcement of the Code. In New Zealand, the standards in the Code are enforced by the New Zealand Food Safety Authority (NZFSA).

The Code contains many generic standards that apply across all classes of foods e.g. standards concerning food labeling; substances added to foods (such as additives, processing aids); contaminants and residues; foods requiring pre-market clearance including foods derived from genetically modified organisms; and microbiological limits. Depending on the type of food, the Code may contain a number of specific requirements regarding the composition of the food. For instance, there are requirements dictating the composition of peanut butter, ice cream and chocolate, among others. The Food Code also contains requirements relating to genetically modified (GM) food. GM foods can only be sold in New Zealand if Food Standards Australia New Zealand (FSANZ) has assessed them for safety and approved them for sale. At present, FSANZ has approved ingredients derived from GM corn, canola, soy and sugar beet for use in food in New Zealand and is considering ingredients derived from GM rice. The Code also specifies the additives that can be added to food. Additives cannot be used in food unless FSANZ has assessed them for safety. The Code also contains permissions for addition of vitamins and minerals to specific foods.

B. Key Organizations

New Zealand organizations that play key roles in regulating the food supply include: the New Zealand Food Safety Authority (NZFSA), Food Standards Australia New Zealand (FSANZ), and Biosecurity New Zealand, which is part of the Ministry of Agriculture and Forestry (MAF).

New Zealand Food Safety Authority

Prior to July 1, 2002, New Zealand had two separate regimes for food administration. The Ministry of Health administered the Food Act covering food sold on the domestic market,

including imported food, while the Ministry of Agriculture and Forestry (MAF) administered other food related legislation that was, for the most part, aimed at primary production, processing and exports.

In 2002, the New Zealand Government established the [New Zealand Food Safety Authority](#) (NZFSA) as a single integrated agency that would take responsibility for all food-related legislation. NZFSA's mandate it to protect and promote public health and safety and facilitate access to overseas markets for New Zealand food products and by-products. Among other things, NZFSA is responsible for administering food safety in the production, processing distribution, preparation, retail sale and export of food; ensuring all food for sale in New Zealand meets food safety and hygiene standards; managing the joint food standards treaty with Australia; and negotiating and providing official assurances to other governments for food and food-related products.

A significant NZFSA initiative is the Domestic Food Review - the biggest review of all the legislation and regulations relating to food sold in New Zealand in 30 years. The Review covers government involvement in all aspects of the safety and suitability of food produced, processed, manufactured, transported, imported and traded in New Zealand. The goal of the review is to improve the food regulatory environment. If approved, the recommendations in the Domestic Food Review are expected to be implemented in July 2008 and will include a five-year transition period, which will conclude in 2013.

In concert with the Domestic Food Review, NZFSA is in the process of implementing the outcomes of the Imported Food Review, which was completed in 2004. The Review covered all imported foods and beverages, agricultural compounds (including fertilizers and animal feeds), veterinary medicines and pet foods. The revised imported food regime is intended to improve confidence that imports meet food safety and suitability requirements by ensuring the program is based on sound risk management and decision making, is responsive and flexible and the emphasis moves away from stand-alone border testing to recognizing exporting country systems and assurances.

Key features of the proposed regime are improved information collection and management and a more targeted surveillance program to manage emerging issues. All imported foods will be categorized into high, medium or low interest categories and high interest foods will be subject to pre-entry assurance arrangements. In addition, the proposed system will include a registration program, which will require all importers to register with NZFSA so that their operations can be verified. Importers will be required to take responsibility for the safety and suitability of imported foods via Food Control Plans or by operating under a National Imported Food Program. Border clearance procedures will be simplified and modernized with use of technology such as electronic certification.

NZFSA expects that the move away from relying on testing at the border to recognizing programs and systems operating in exporting countries will provide more confidence that imported food meets New Zealand standards or is produced under controls equivalent to New Zealand's domestic controls. Another benefit is that the proposed new regime should provide more certainty for both importers and exporting countries. The proposed new regime will be implemented in stages over the next few years with transition arrangements ensuring there is as little disruption as possible.

Food Standards Australia New Zealand (FSANZ)

[Food Standards Australia New Zealand \(FSANZ\)](#), a statutory authority operating under the [Food Standards Australia New Zealand Act 1991](#), was established in 2002. Its primary

objectives are: the protection of public health and safety; provision of adequate information to consumers to make informed choices; and the prevention of misleading or deceptive conduct. As such, FSANZ is responsible for setting food standards that govern the content and labeling of foods sold in both New Zealand and Australia. The standards cover food composition, labelling and contaminants, including microbiological limits. In New Zealand, NZFSA enforces these standards.

In its current work plan, FSANZ is reviewing whether or not there should be a requirement to fortify foods with folic acid and iodine. FSANZ is currently developing a standard regarding health claims including three types of health claims (nutrition claims, general level claims referencing non-serious diseases and high level claims referencing serious diseases), eligibility criteria and labeling requirements. FSANZ is also reviewing the dietary intake of trans fatty acids in Australia and New Zealand, assessing risk to consumers and considering potential regulatory and non-regulatory measures.

Biosecurity New Zealand

[Biosecurity New Zealand](#) is the agency within the Ministry of Agriculture and Forestry (MAF) with the lead role in biosecurity protection (e.g. preventing unwanted pests and diseases being imported into New Zealand, and for controlling, managing or eradicating them should they arrive).

Products imported into New Zealand must have an import health standard. As a result of the high demand for import health standards, MAF adopted a new system for the funding and management of import health standards as of July 2006. The new system is intended to be more transparent and to increase resources for developing import health standards over time. The new system is as follows:

- Every year, around December, MAF will invite applications or reconfirmations of requests for import health standard work for the year starting next July, along with an indication of whether applicants would be willing to fund the work.
- MAF compiles a list of all the "live" requests for import health standard work for the coming year.
- If the requests are significantly more than MAF's estimated capacity for the next year, MAF officials will pre-screen the requests using a set of prioritisation criteria. The pre-screen identifies those requests that clearly will not be prioritised high enough to be progressed during the year.
- An expert panel including MAF, other government departments and experienced independent persons, then prioritises the remaining import health standard requests using the same prioritisation criteria.
- Once MAF has a prioritised list of requests, the Crown-funded resources are matched to the highest priority items to form the Crown-funded portion of the work program.
- The remaining applicants who indicated that they would be prepared to fund their application will then, in priority order and provided suitable contracted or staff resources are available, be invited to consider funding development of their standard.
- The annual import health standard development work programme is then be finalised, comprising both Crown and privately funded resources.
- Applicants are then advised of the result for their application and the prioritised list of all requests and the annual work programme published on the MAF Biosecurity New Zealand website.

MAF is generally able to complete about 10% of the requests for new work, which is why requests need to be prioritized. The prioritization criteria include: strategic fit with the New

Zealand Government's goals, net benefit for New Zealand, technical difficulty of the work, acceptability of the result for New Zealanders, and the availability of suitable resources.

SECTION II: LABELING REQUIREMENTS

Food sold in New Zealand must be labeled in accordance with the Code.

Food labeling requirements

Most food for sale in New Zealand must be clearly labeled in English (other languages can be used in addition to English, as long as they do not contradict the information). Specific health and safety information about some food products must be given to consumers even when a complete label is not required (for example the presence of caffeine and allergenic substances). Additional labeling statements may be required under the individual food product standards specified in the Food Standards Code. (See Standard 1.2.2 - 1.2.10 of the Food Code for specifics.)

Labels must include the following information:

- **The name of the food:** Food products must be accurately named and/or described on the label. If a name is specified for the food in the Food Standards Code then this name must be used.
- **Lot identification:** This is information that clearly indicates the premises where the food was packaged and/or prepared and the batch from which it came, to assist should there be a food recall. A date mark and supplier's address may be sufficient.
- **Name and address:** The supplier's name and business (street) address in New Zealand or Australia. (Note: "Supplier" includes packer, manufacturer, vendor or importer of the food.)
- **Mandatory warning statements, advisory statements and declarations for certain ingredients/substances:** Some products must have special advisory and warning statements about the food or ingredients/substances in a food (e.g. food containing unpasteurised egg must advise/state that the product contains unpasteurised egg and foods containing royal jelly must include a specific *warning* statement). This information must be available even where a complete label is not required. Warning statements must appear on labels on 3mm type (1.5mm for small packages).
- **Mandatory declaration of certain ingredients/substances:** The presence of common food allergens and food/ingredients that commonly cause food intolerances (e.g. peanuts, gluten) must be declared on food labels, or where a complete label is not required, the information must be available to the consumer.
- **Ingredient list:** All ingredients must be listed by their common name, a description or, where specified in the Food Standards Code, the generic name, in descending order of in-going weight. Ingredients are any substances used in the preparation, manufacture and handling of a food and include food additives, compound ingredients (any ingredient that is itself made up of two or more ingredients), and added water.
- **Food additives:** The class name of the additive (where specified in the Food Standards Code) followed by the additive's specific name or code number must be declared. Where the additive is a vitamin or mineral the class name "vitamin" or "mineral" may be used.
- **Date marking:** Most packaged foods with a shelf life of less than two years must have one of the following date marks:

- **"Use By"** dates, which relate to food safety. Foods with a "Use By" date should not be consumed after the date indicated for health and safety reasons. Food cannot be sold beyond their "Use By" date.
- **"Best Before"** dates, which relate to quality. Foods should be consumed by their "Best Before" date to ensure quality. Foods can be sold beyond their "Best Before" date provided it is still fit for consumption.
- **"Baked On"** and **"Baked For"** dates can be used for breads with a shelf life of less than 7 days.
- **Directions for use and storage:** Storage instructions must be provided where necessary to ensure that the food will keep for the period indicated by the date mark and/or where the consumer should be aware of any storage and use requirements necessary to ensure the food safety.

Nutrition Information Panel: The nutritional information panel (NIP) must be set out specifically as shown below and is required on most packaged food products. Where average quantities or minimum/maximum quantities are given this must be indicated in the NIP.

Example of a Blank Nutrition Information Panel:

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Quantity per Serving	Quantity per 100g (or 100mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
- saturated	g	g
Carbohydrate	g	g
sugars	g	g
Sodium	mg (mmol)	mg (mmol)
(insert any other nutrient or biologically active substance to be declared)	g, mg, µg (or other units as appropriate)	g, mg, µg (or other units as appropriate)

- **Percentage labeling:** The percentage of the characterizing ingredients, and/or components of most food products must be indicated on the label.
- **Net content** is required under the Weights and Measures Regulations 1999.

Labeling requirements for food produced using gene technology

Genetically modified ingredients and foods can only be sold in New Zealand if FSANZ has assessed them for safety and they have been approved by FSANZ. New Zealand and Australia have one of the most comprehensive labelling regimes for genetically modified (GM) foods in the world. As of December 2001, wherever a GM ingredient, additive or processing aid is present in the final food, the food must be labelled. A typical ingredient list for a food containing a GM ingredient is as follows:

Ingredients: wheat flour, water added, yeast, soya flour (genetically modified), vegetable oil, sugar, emulsifiers (471, 472E), preservative (282), enzyme amylase.

Where ingredients derived from GM plants - such as sugars, oils and some GM additives and processing aids - have been refined to the extent that there is no residual genetic material or protein of the source plant in the final product, and the product does not have altered

characteristics, special labelling is not required. Another exemption to the labelling requirements in processed foods are GM flavors, which are allowed to be present up to a level of one part in a thousand in the final food without being identified as GM. Foods prepared from GM ingredients, additives and processing aids, but sold unlabelled at the point of sale for immediate consumption - e.g. restaurants, hotels and take-aways - are also exempt from labelling requirements.

NZFS is responsible for the enforcement of GM food labeling standards in New Zealand. For additional information, review [Standard 1.5.2](#), which regulates the sale of genetically modified foods in Australia and New Zealand and was incorporated into the Food Standards Code on May 13, 1999 and amended on December 7, 2000.

SECTION III: PACKAGING AND CONTAINER REQUIREMENTS

Food packaging materials

Neither the Food Code, nor the New Zealand Food Regulations 1984 specify details of materials permitted to be added to or used to produce food packaging materials. However, the effect of the New Zealand Food Act 1981 is that packaging when used must not cause food to be unsafe or tainted. Specific requirements in the Code, which relate to contaminants, must also be met ([Standard 1.4.3](#) Articles and Materials in Contact with Food). It is the responsibility of food manufacturers and sellers to ensure their products are safe and that they comply with legislation. In practice, packaging suppliers will need to ensure their products are suitable for the intended use. Compliance with recognized international food standards such as those of the European Union (EU) or the United States Food and Drug Administration would be reasonable evidence that materials are suitable for food use.

Wood packaging materials used for shipping products to New Zealand

Under the Biosecurity Act (1993) importers must comply with an Import Health Standard (IHS) that outlines phytosanitary requirements for wood packaging material to be given biosecurity clearance into New Zealand. The IHS for "[Wood Packaging Material from All Countries](#)" has been developed under the requirements of the Biosecurity Act (1993) and New Zealand's obligations under the International Plant Protection Convention (1997).

Import health standard for sea containers

All sea containers must be deemed to be free from contamination before they will be given biosecurity clearance by an inspector. Find the current Import Health Standard here: [Sea Containers from All Countries](#).

From September 1, 2003 onwards, all imported containers must be covered by documentation giving the following information pertaining to the container and the cargo (if any) within: container number, origin (where the container was packed), the port at which the container was first loaded aboard a vessel for shipment to New Zealand, exporter, importer, a complete and accurate description of the contents, including packaging, a quarantine declaration, and treatment certification if applicable.

In addition to the above, some containers are deemed to be "high risk". These must be subjected to either:

- Six-sided external inspection on the port area by an inspector within 48 hours of discharge, or
- Fumigation with methyl bromide, or

- Be accompanied by an official phytosanitary certificate attesting to the container's freedom from specific contamination, or
- Have undergone a decontamination or certification system approved by the Director, Border Management for use in lieu of external inspection.

To expedite clearance, additional certification of containers as free from restricted packaging and free of contamination of either the external or internal surfaces of the container or both is an option. In certain circumstances, certification may cover multiple arrivals of containers for periods of up to one year.

Import health standard for air containers

Air containers used for the import of food products into New Zealand must meet a minimum standard of cleanliness. All parts of the container including the internal and external sides must be free of contamination. Every container must also be free of any of the following:

- Animals, insects or other invertebrates (any life cycle stage), egg casings or rafts, or any organic material of animal origin (including blood, bones, fiber, meat, secretions, excretions, etc);
- Plants or plant products (including fruit, seeds, leaves, twigs, roots, bark, saw dust, or other organic material); or
- Soil or water

For additional information, see the MAF import health standard: [Air Containers from any Country](#) (MAF Regulatory Authority 152.07.011).

SECTION IV: FOOD ADDITIVE REGULATIONS

FSANZ is responsible for the development and modification of food standards in the *Food Standards Code*. The section of the code that governs food additives, Standard 1.3.1, has been in force for several years. It was developed on the basis of food additive provisions from the former Australia Food Standards Code and the former New Zealand Food Regulations, 1984. The Code addresses additives in two ways. Some additives have specific permissions and levels allowed in food. Others are permitted at levels determined by GMP (Good Manufacturing Practice).

The Confederation of Food and Drink Industries of the European Community developed the basic food classification system that was modified to categorize Australian and New Zealand foods into Schedule 1. Over the past few years, feedback from stakeholders has suggested that there has been some difficulty in interpreting Schedule 1 and other relevant clauses in the standard. FSANZ is in the process of making changes to Schedule 1 and to individual clauses to clarify and improve the standard.

Information regarding applications for the approval of new food additive is available at: <http://www.foodstandards.gov.au/standardsdevelopment/informationforapplic559.cfm>

Special note should be taken for additives that are genetically modified. For more information on the declaration of genetically modified ingredients see FSANZ guideline: [Labeling Genetically Modified Food](#).

SECTION V: PESTICIDES AND OTHER CONTAMINANTS

Contaminants and natural toxicants

FSANZ sets standards for the maximum levels (MLs) of specified metal and non-metal contaminants and natural toxicants in nominated foods.

Pesticide residues and chemical contaminants

The upper limit of agricultural and veterinary chemical residue allowed in a food is known as the Maximum Residue Limit (MRL). FSANZ sets MRLs for Australia only, and these are in the Code. NZFSA has responsibility for setting and enforcing MRLs in New Zealand.

Microbiological contaminants

FSANZ sets microbiological limits for foods in both countries. Dangerous microbiological contaminants may be introduced through poor food handling and storage practices, or foods may be contaminated through outside sources

SECTION VI: PROCESSING REQUIREMENTS

FSANZ sets processing requirements for Australian food producers. NZFSA also sets processing requirements for New Zealand producers. In general, food producers are required to ensure foods are both safe and suitable and to adopt a risk management approach to processing requirements using principles of Hazard Analysis of Critical Control Points (HACCP).

SECTION VII: COPYRIGHT/TRADEMARK LAWS

Patents

The [Patents Act 1953](#) ("the Act") governs patents in New Zealand. In December 2004, the Ministry of Economic Development released draft legislation intended to replace the Patents Act 1953 and to bring New Zealand's patent law into conformity with international standards. This draft would keep the maximum patent term at 20 years, but would tighten the criteria for granting a patent. To date, the draft legislation has not been acted on.

In New Zealand, the two main criteria for the granting a patent are if it is "new" or if it is a "manner of new manufacture". An invention is considered new if a description of the invention has not been published in New Zealand before the filing date of the application. No notice is taken of information published outside New Zealand but not publicly available within New Zealand. "Manner of new manufacture" has been interpreted by the courts to exclude such things as "products of nature", mathematical operations, bare principles, mathematical algorithms, schemes or plans and methods of medical treatment of humans. As a condition of the granting of a patent, a full description of the invention is required. A patent will not be granted for things that do not qualify as a "manner of new manufacture". A patent will last for twenty years from the date that [Intellectual Property Office of New Zealand](#) (IPONZ) receives a complete application provided that the renewal fees are paid at the end of the fourth, seventh, tenth and thirteenth years of the patent's existence.

Trademarks

In New Zealand, protection is provided to registered trademarks through the Trade Marks Act 2002. This Act defines the scope of rights protected by trademarks, simplifies and

streamlines processes for registering a trade mark, introduces new measures to deter pirating of copyright works and counterfeiting of trade marks, and strengthens protection for well-known trademarks.

Trademark protection can be provided to almost any sign that is capable of being represented graphically, and is capable of distinguishing the goods or services of one person from those of another. Once a trademark is registered, the owner has the exclusive right to use that trademark. The initial registration lasts for a period of ten years from the date the [Intellectual Property Office of New Zealand](#) (IPONZ) received an application. The registration is thereafter renewable for further periods of ten years, for an indefinite period.

Copyright

The Copyright Act 1994 governs copyright law in New Zealand. These rights allow copyright owners to control certain activities relating to the use and dissemination of copyright works. New Zealand is party to various international agreements, including:

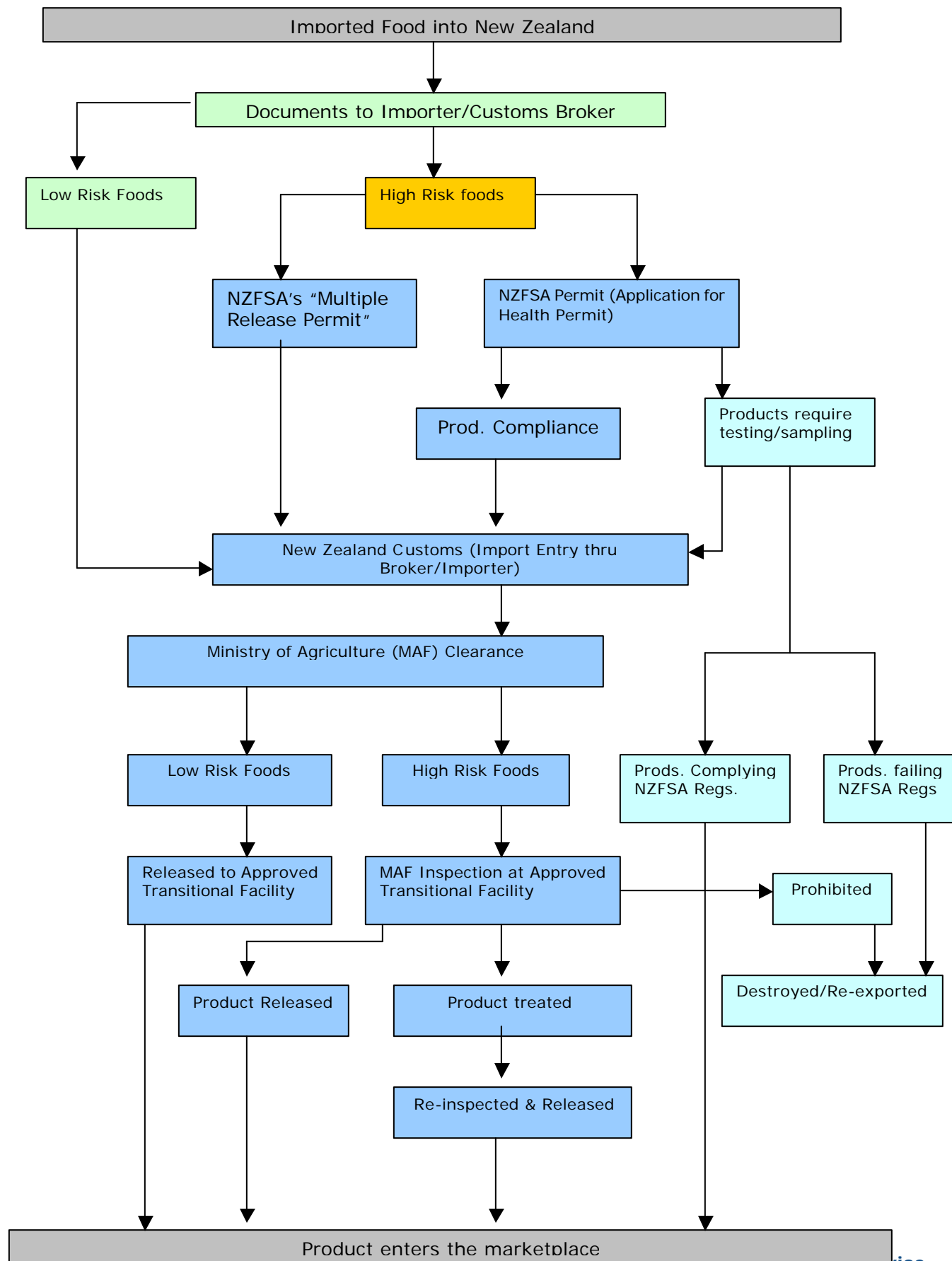
- The Agreement on the Trade-Related Aspects of Intellectual Property Rights (the [TRIPS Agreement](#)) (Annex 1C to the Agreement Establishing the [World Trade Organisation](#) (WTO) 1994);
- The [Berne Convention for the Protection of Literary and Artistic Works 1928](#) (Rome Act revision);
- The [Universal Copyright Convention 1952](#).

For a "work" or type of material to qualify for copyright protection, four conditions must generally be satisfied:

- It must fall within one of the categories or subject matter in which copyright can exist;
- It must be sufficiently "original";
- The "author" must be a "qualified person"; and
- Certain works must be fixed either in writing or some other material form.

Copyright protection applies only for a limited period of time (mostly lasting 15-50 years). Once copyright expires, it falls into the 'public domain' and can be freely used.

SECTION VIII: IMPORT PROCEDURE



APPENDIX I: GOVERNMENT REGULATORY AGENCY CONTACTS

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Web: www.foodstandards.govt.nz

Ministry of Agriculture and Forestry
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Environmental Risk Management Authority
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Email: info@ermanz.govt.nz
Web: www.ermanz.govt.nz

New Zealand Customs Service
(Wellington, Corporate Office)
PO Box 2218
Wellington, New Zealand
Phone: (+64)-4-473 6099
Fax: (+64)-4-473 7370
Email: feedback@customs.govt.nz
Web: www.customs.govt.nz

Ministry of Consumer Affairs
PO Box 1473
Wellington, New Zealand
Phone: (+64)-4-474 2750
Fax: (+64)-4-473 9400
Email: mcainfo@mca.govt.nz
Web: www.consumeraffairs.govt.nz
New Zealand Commerce Commission
PO Box 2351
Wellington

New Zealand
Phone: (+64)-4-924 3600
Fax: (+64)-4-924 3700
Email: contact@comcom.govt.nz
Web: www.comcom.govt.nz

Intellectual Property Office of New Zealand
PO Box 30 687
Lower Hutt
Wellington
New Zealand
Phone: (+64)-4-569 4400
Fax: (+64)-4-569 2298
Web: www.iponz.govt.nz

The Commissioner
Plant Variety Rights Office
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Ministry of Health
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SPS & TBT Contacts

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Web: <http://www.maf.govt.nz/biosecurity/sps/index.htm>

TBT Enquiry Point
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Ministry of Foreign Affairs and Trade
Private Bag 18 901
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Fax: (+64)-4-472 9596
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Web: <http://www.amcham.co.nz/>

New Zealand Grocery Marketers Association
PO Box 1925
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